

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

DAVID SNODGRASS	)	
	)	
v.	)	NO. 3:10-0282
	)	JUDGE CAMPBELL
TN DEPT. OF FINANCE AND ADM. BUREAU	)	
OF TENNCARE, et al.	)	

ORDER

Pending before the Court is Defendant Dentaquest's Motion to Dismiss the Amended Complaint (Docket No. 35). The Motion is GRANTED in part and DENIED in part. Defendant Dentaquest's Motion to Dismiss (Docket No. 24) is MOOT in light of the filing of an Amended Complaint.

By contemporaneous Order, the Court has dismissed the Section 1983 claims against the co-Defendants. Count III (Federal Constitutional Violations as to Defendant Dentaquest) and Count V (42 U.S.C. § 1983 Conspiracy) against Defendant Dentaquest are dismissed for the same reasons.

Defendant's Motion to Dismiss Count IV (Breach of Contract as to Defendant Dentaquest) is DENIED. Plaintiff has adequately pled breach of contract to survive a motion to dismiss. Defendant argues that Section 9 of the PSA provides for certain immunity for acts "performed or made in good faith or without malice." Plaintiff, however, has sufficiently pled malice.


Defendant Dentaquest has also moved to dismiss or to stay the case pending arbitration under the PSA. Plaintiff, in response, stated he is making no claim under the PSA. This issue is, therefore, moot.

Finally, Defendant Dentaquest has moved to dismiss on the ground that Plaintiff is not entitled to injunctive relief or money damages. This is denied on the grounds that the underlying substantive claims must first be resolved.

To summarize, the only remaining claim is Count IV: Breach of Contract as to Defendant Dentaquest.

The case is returned to the Magistrate Judge for case management. The Court also orders the parties to participate in Alternative Dispute Resolution. The Magistrate Judge shall determine what type of ADR is most suitable and shall implement it.

IT IS SO ORDERED.

  
TODD J. CAMPBELL  
UNITED STATES DISTRICT JUDGE